

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
NEW YORK BRANCH OFFICE
DIVISION OF JUDGES**

PSCH, INC.

and

Case No. 29-CA-25881

**UNION OF NEEDLETRADES, INDUSTRIAL
& TEXTILE EMPLOYEES**

Kathy Drew King, Esq., Counsel for the General Counsel.
Brent Garren, Esq., Counsel for the Charging Party.
Seth Borden, Esq. and Eric Simon, Esq., *Kreitzman, Mortenson, Simon & Irgang*, Counsel for the Respondent.

DECISION

Statement of the Case

Joel P. Biblowitz, Administrative Law Judge: This case was heard by me in Brooklyn, New York and New York, New York on March 2 and 19, 2004. The Complaint herein, which issued on December 30, 2003¹ and was based upon an unfair labor practice charge that was filed on September 29 by Union of Needletrades, Industrial & Textile Employees, herein called the Union or UNITE, alleges that on April 23 PSCH, Inc., herein called the Respondent, disciplined its employee Ray Vera by issuing him a supervisory note, and on about August 8 it terminated him, both because of his activities on behalf of the Union. Respondent admits that Vera was disciplined and terminated on the dates alleged, but defends that these actions were caused by his insubordination and profanity on the job, rather than his Union activities.

I. Jurisdiction

Respondent admits, and I find, that it has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

II. Labor Organization Status

Respondent admits, and I find, that the Union has been a labor organization within the meaning of Section 2(5) of the Act.

III. The Facts

The Respondent is engaged in providing services to mentally and psychologically disabled individuals. Vera began his employment with the Respondent in November 1998, and was employed as a job coach counselor, which involves training clients with mental disabilities to perform jobs in janitorial services. The two principal locations where he worked were Creedmore Hospital, where his supervisor was Kevin Bartels, and the Manhattan Psychiatric Center, herein called MPC, where his supervisor was Marcos Rivera.

¹ Unless indicated otherwise, all dates referred to herein relate to the year 2003.

Sometime in early February, Alex Adkins, a representative of the Union, came to see Vera at his home and told him that she would like to speak to him about the Union. He told her that he wasn't interested in the Union and that he had been in a union before. She left, but gave him her telephone number, in case he changed his mind. Vera then called Bartels and told him that he had been visited at home by a Union representative, and didn't know how the Union got his address. Bartels thanked Vera for telling him and told him not to worry about it, and that he would notify Ralph Farkas, Respondent's owner. On about February 14, the Respondent distributed a memorandum to all of its employees, which basically states that the Union is engaged in attempting to organize them and stresses the disadvantages of unionization. There is no allegation that anything contained in this memorandum, or any other communication to the employees, oral or written, violates the Act.

On February 18 there was a major snow storm in the area. When Vera arrived at MPC that morning, he was paged by Bartels. When Vera called him, Bartels told him that the Respondent's vans were not to be taken out that day by order of Farkas; normally, Vera and other employees transport the clients in the Respondent's vans. Bartels also told him that he should use his car, but he should not take clients with him. Vera questioned Bartels about a possible insurance liability that he could have, and said that it wasn't right that he couldn't use the Respondent's van, which he had been doing for four years. He said that he disagreed with Bartels, and "to solve the problem, I might as well go home." Bartels said that if he did that, "there will be consequences." Vera responded: "You know what Kevin, this is why we need UNITE." Vera worked that day, using his car. Bartels testified that he was told early that morning to keep the Respondent's vehicles off the roads and that consumers could not be transported that day, because of the weather. When he notified Vera of this, Vera became "very loud and angry over the phone." He said that he was not going to take his car to the work sites; who would pay for any damage to his car? He also said: "This is not right. This is bullshit." Bartels told him to calm down. He told him that he could go to Mays Plaza, where he could assist the job coach who was there and then go home. Vera asked why he couldn't go to Station Road, his regular site, and Bartels said that it was closed. By that time, Vera was yelling, and Bartels told him that if he didn't want to take his car, he could take public transportation. On the following day, Vera was given a Supervisory Note about the incident, which stated that Vera was "highly upset" after Bartels told him to use his vehicle or public transportation and said "This is why we need a union" and that he would go home rather than go to one of the suggested work sites. The Note referred to his "tone" as "inappropriate." The note ended: "Supervisor informed Ramon that all of his concerns were valid, but that in the future he should exercise a more appropriate, and professional approach when expressing concerns and/or frustration. Ramon agreed. Ramon and supervisor will continue to work on this area during supervision."

About two or three days later Vera met Adkins at one of the Respondent's work sites, told her of what occurred on February 18, signed a Union card and gave it to her. He told Adkins that he supported the Union "100 percent in any way, shape or form." On about February 22, he received a subpoena from a hearing officer of the Board to appear at the Board office on February 27 to testify in a matter involving the Union's petition to represent the Respondent's employees. Shortly thereafter, he gave a copy of the subpoena to Bartels and when Bartels asked what it was, he told Bartels, "well, you have to read it just like I had to read your supervisory note and it will explain what it is." He testified as he left the room, Bartels slammed the door and said, "This fucking bastard has some nerve giving me this shit and I want to make sure I get him." (There is no mention in the affidavit that Vera gave to the Board of this alleged outburst by Bartels.) Bartels testified that Vera handed him the subpoena while he was at MPC and when he asked Vera what it was, Vera said, "You have to read it just like I read all of my supervisions." Bartels walked into his office, closed the door, read it and came out and told

Vera, “Fine, take a personal or vacation day.” He never said anything else to him about the subpoena, and never said that he “was going to get him” because of it. Bartels testified further that he never spoke to Vera about the Union. Rivera testified that his only knowledge of Vera’s connection to the Union is that he heard that he was running for a position at the Union: “I’m not
 5 sure what it was, but that’s about it.” Vera appeared at the Region for the hearing with about three other employees. There was no need for a hearing as the Respondent entered into a Stipulated Election Agreement on February 27, agreed to a card check, and signed a recognition agreement with the Union on March 10.

Vera received Supervision Notes dated March 3, 4 and 5, which relate to contacting consumers during nonworking hours or giving them presents. Vera testified that on March 3, Rivera told him that he was not to contact any clients at home and he was not to give them any kind of clothing. Prior to this, he had contacted clients at home. He testified that this was the first
 10 time that he was told of these restrictions. However, on cross-examination, he admitted that he was given a copy of the Respondent’s rules of conduct for its employees, otherwise known as “The Bible”, which states that employees are subject to immediate discharge for engaging in any one of twenty three actions. Policy 4.1, No. 21 states: “Relationship with a client outside of the scope of employment which may or may not result in intimacy.”² In addition, on December 5, 2001 and on April 3, 2002, he attended staff meetings at which time Bartels explained that it
 15 was inappropriate for the staff to have personal contact with consumers, such as giving them gifts or calling them. On March 4, Vera had another conversation with Rivera about this subject. He told Rivera that he disagreed with the rule, and that’s why the employees want the Union. On March 5, he told Rivera that he wouldn’t honor his request unless it was put in writing. Later that day, he called Rivera and told him that although he disagreed with him, he would honor his request. The March 3 Supervisory Note state that Rivera explained to Vera why it was
 20 inappropriate to give presents, such as clothing, to consumers and that he explained that there should be no after- hours contact with consumers. The March 4 Note states, *inter alia*:

Met with Ramon Vera to continue our discussion regarding Kevin Bartels and Nelly Sancassani’s directive that Job Coaches will no longer be able to contact consumers after hours, or on weekends. All contact must be made during work hours regarding work related issues. Ramon informed supervisor that unless this policy is put in writing, he would not abide by it. Ramon was advised of consequences, should he intentionally
 30 decide not to follow directive. (i.e. written warning) Ramon informed supervisor that he was willing to accept any consequences that he may receive. He also went on to say that he had been speaking to people regarding this, and that this is why “Unite” is needed; that once he receives a memo regarding the change that he would then pass it along.

40 The March 5 Supervisory Note states:

Received a call from Ramon on Wednesday night, telling supervisor that he thought about the conversation regarding consumer contact, and that even though he did not agree, he would follow the directive given by Project Clean management, but that he
 45 would bring up the issue at a later date. Ramon apologized for his behavior, and expressed that he only had the best interest of the program at heart, and did not mean to be difficult. We discussed the reasons behind the directive, liability issues, etc. The conversation ended on a positive note.

50 ² In addition, Policy 4.1.3 refers to insubordination, and 4.1.9 refers to “Unprofessional conduct toward an employee, client or the community.”

Rivera testified that Supervisory Notes such as this is “a form of disciplinary action.” He felt that a Supervisory Note, rather than a formal warning was more appropriate in this situation because: “I figured that it would be an issue that could be resolved through supervision. That we didn’t have to go through...verbal warning, written warning.” The Respondent issued an interoffice memo to all Project Clean staff dated March 6, telling them that all interactions with consumers must be on a professional level, that they should not exchange gifts with consumers and should not contact them outside of working hours.

In about the middle of March Vera told Rivera that he needed a day off because he was going to Albany, New York with other Union members to lobby on behalf of the Union. He received the day off, went to Albany, and had his picture taken with a State representative that later appeared on a poster that was placed at Respondent’s work sites. In addition, Vera campaigned to be a member of the Union’s negotiating committee, but lost the election. He testified that he became a member of the Union’s Committee Action Team, which distributes Union hats, pins and shirts to employees although Vera’s affidavit does not mention being a member of the Union’s Committee Action Team or distributing Union paraphernalia. Further, Vera wore a Union hat and pin to work every day. He testified that on April 22 he told Rivera, “You have to stop this negative trail that you are creating about me” and Rivera responded: “You got yourself involved in union activities and I was told to enforce all of the rules.” Rivera testified that Vera never made this “paper trail” statement to him and he never told Vera that he was enforcing certain rules because of the Union.

On April 9, Rivera held a staff meeting with Vera and other staff present. One of the subjects that was discussed, was: “Staff/consumer interactions: Must be professional at all times; using inappropriate language (i.e. cursing, profanity) towards/around consumers is not only considered inappropriate, but it is also a form of abuse. Keep personal business-PERSONAL!” On April 23, Vera was having lunch with some consumers at MPC and he asked one of the consumers to throw away the uneaten food in the trash bag. In doing so he told the consumer to be careful that “the shit doesn’t get on the floor.” Rivera heard this and, according to Vera’s testimony, “went berserk” and called him into his office, and warned him about cursing. On April 23, Vera was given another Supervision Note. It states that after Rivera spoke to him about his inappropriate language, Vera responded that they were “being too uptight, and it needs to stop.” He also said that it should be discussed at a staff meeting, rather than on an individual basis. At the staff meeting, Vera said that the supervisor “was getting bent out of shape” over the issue, that he had been using this type of language for forty three years, “and that no one was going to tell him how to speak.” Rivera told him that while he was with the consumers he could be told what he could not say, and if he could not control himself, then perhaps the Respondent was not the place for him to work. Vera then said, “This supervisory stuff is getting to your head.” After the meeting, Vera asked if they could work it out without making a big deal out of it, and Rivera said that they could. Vera said that he understood the reasoning behind the issue and that he would work on improving the situation. The Supervisory Note ended: “Should this type of behavior continue, supervisor will be forced to take disciplinary action.”

There were no further incidents between April 23 and August 6. On May 7, Rivera wrote a memo to all Project Clean/MPC Staff stating: “I want to thank you for taking care of things during my absence. I want to remind you that I appreciate everything that you do for our program and consumers. Please continue the great work. Great job!!!!”

The final incident occurred on August 6. On that day Vera arrived at MPC at about 2:00, when he was approached by one of the consumers, “Richie”, who told him that Rivera told him

to go to a different work site and he didn't want to go. Vera told him to calm down, that he would talk to Rivera. He went to the main building entrance, where he met Rivera, Frank Chugan, a senior instructor, and Arthur Manchin, a new job coach. They were talking when Vera approached them and Manchin told him that he got the mortgage for his house and Vera congratulated him. Vera testified that he then asked Manchin how much his mortgage payments were and Manchin said \$2,500 and Rivera said, "That's a lot of money, I can't afford that." Vera said that it was a lot of money, but that he made \$50,000 a year. Rivera got angry, saying that he didn't earn \$50,000, and Vera said, "Okay, \$48,500." Manchin then said that he could afford the payments because both he and his wife work. The conversation then turned to work, and Manchin told Vera that he was going to have to use Richie that day, and Vera said that he couldn't spare him because he only had three men. Rivera then said that he had told Manchin that he could use him, and Vera said that he needed all of his people because they had to clean the Station Road site, which is a big job, and Rivera said that Station Road needed to have extra work performed. Vera told him that it was impossible for he and his men to strip and wax the facility, especially if he was taking one of his men from him, but maybe they could do it at a later time. When Rivera insisted that he wanted Station Road done, Vera told him that he was going to call Bartels to get him some help. He testified that he did not use profanity and did not tell Rivera that he was not going to do "this shit." He told him that it was impossible to do it, but he never refused to do it. He then went to clean another site, and then did the normal cleaning at the Station Road site.

Rivera testified that he was speaking to Chusan and Manchin while standing outside the MPC entrance with staff and consumers nearby, when they were joined by Vera. He could not specifically recollect whether there was any discussion of a mortgage, as testified to by Vera, but he told Vera that the Station Road site needed to be stripped and waxed and Vera asked about the Reese School, another of Vera's sites, and Rivera said that they had not yet made a decision on that site. Vera replied that he had only three men in his crew and "he wasn't going to do this shit is what he said." Rivera then suggested a different day or the possibility of getting other people to assist him, but Vera repeated that he wouldn't do it because he didn't have enough men. Vera became very animated and upset and said that since Rivera was paid \$50,000 a year while he made \$25,000, Rivera should be able to figure it out. Rivera then told Vera that if he was so unhappy with his salary, perhaps he should look for employment elsewhere, and Vera said that those kinds of threats will land him in front of the Labor Board. Rivera said that it wasn't a threat, it was a suggestion. Vera kept getting closer to him, and by that time he was about a foot away from him. The conversation ended by Vera walking into the building, waving his hands in a dismissive manner at Rivera saying: "I'm not doing this shit." After this incident, Rivera called Bartels, his supervisor, and he informed him of the incident.

Prior to resting, Counsel for the General Counsel called as a witness Richard Morales, who was present at MPC on August 6 and is, or was, a consumer at MPC. Counsel for the Respondent objected to such testimony for confidentiality and other reasons, stating, in addition, that Morales had testified, by phone, at Vera's Unemployment hearing, and that they had ordered the transcript and it would be more appropriate to use the transcript of his testimony at that hearing. On that basis, Counsel for the General Counsel, at that time, withdrew Morales as a witness. At the second day of hearing, after counsel for the Respondent had obtained the Unemployment hearing transcript, Counsel for the General Counsel moved for the introduction of the transcript including Morales' testimony. Counsel for the Respondent objected on the grounds of relevance and hearsay, and that the Respondent did not have an opportunity to cross examine Morales in the context of the Board proceeding. I pointed out to counsel that it was he who had initially opposed having Morales testify and, in lieu thereof, to use the Unemployment transcript. I also noted that the Respondent did have counsel at the Unemployment hearing and he did cross examine Morales. Because of the "unusual

circumstances," I received the transcript in evidence rather than have Morales, who was not available that day, testify. In the Unemployment hearing proceeding, Morales testified that during the discussion outside the main entrance to MPC, he was about three feet from Vera, Rivera, Chusan and Manchin, who were discussing things that needed to be done: "That's all I could remember...and they went into the building but there was no kind of...arguments...There was no cursing." Shortly thereafter, he testified: "there was hardly no cursing." When he was questioned by then counsel for the Respondent, Morales testified:

Q. Your testimony at the end indicated there was hardly any cursing.

A. There was no cursing at all.

Q. Well you said hardly.

A. No cursing at all. Hardly, no cursing at all that I know of.

Counsel asked him if he had been fired by the Respondent, and he testified that he quit:

Q. You were fired weren't you?

A. Well that's what Marcos had told me I was fired and then he brought me into the agency he said that I quit.

Q. Okay, and you were discharged for insubordination weren't you sir?

A. I never was insubordinate.

Bartels testified that prior to hearing from Rivera about this incident, he received a call from Vera, yelling about Rivera: "Something has got to be done. This is bullshit and I'm not going to take this." Bartels got him to calm down and agreed to meet him on the following day, but Vera was sick and away from work on August 7. Shortly after the call from Vera, Bartels received a phone call from Rivera, who described the incident in front of MPC on August 6. After speaking to Rivera, Bartels called Chusan and Manchin, who confirmed that Vera had cursed and they referred to Vera's conduct as "out of line" and "real bad." Bartels testified further that he met with Vera on August 8 and asked him to tell him what happened on August 6. Vera became agitated: "He threw documents on the desk. One had something to do with UNITE I believe. Another had to do with safety procedures...he did not want to talk about the incident." Bartels again asked him about the incident, but he refused. Bartels then told him that he was suspended and escorted him out of the building. This was "standard operating procedure" because he had to discuss the issue with the Respondent's human resources department prior to a termination, although he had determined that termination was in order because Vera was insubordinate, loud, angry and profane in the presence of the consumers in spite of the prior counseling.

When Vera reported for work on August 8, Bartels and Rivera were waiting for him and gave him an Employee Disciplinary Report stating that he was suspended indefinitely for insubordination, unprofessional conduct and conduct detrimental to the agency on August 6. Attached to the report was a memo written by Rivera to Bartels. It states, *inter alia*:

Mr. Vera went on to say, "I only have three guys assigned to my crew, I'm not doing this shit, and I would tell Nelly the same thing." Supervisor informed Mr. Vera that arrangements could be made to have others assist him with this task. Mr. Vera

continued to say that he was not going to complete the task. Supervisor asked Mr. Vera "Why do most conversations with you turn into an argument?" Mr. Vera went on to say "I'm going to bring you and Kevin Bartels down to reality, you make \$50,000 a year and I make \$25,000 a year; you are the Assistant Manager, and I am just a Job Coach. You get paid to figure it out." Mr. Vera continued "I'm not doing this shit" while waving his hands at supervisor. It was pointed out to Mr. Vera that if he was so unhappy with his salary at PSCH, then perhaps he should explore other options. Mr. Vera went on to tell supervisor "Stop talking to me like I'm a client, those kind of threats will land you in front of the Labor Board." Supervisor replied by saying, "It was not a threat, but a suggestion." Mr. Vera walked away from supervisor refusing to follow directive, waving his hands at supervisor.

Note: Project Clean consumers were in the vicinity, while incident took place, and had to be removed...

Vera told Bartels that the allegations in the report were not true and, unlike the prior Supervisory Notes, he refused to sign the report. Vera called the Respondent's Human Resources department and met two days later with "Miss Owens." He testified that he explained to her the events over the prior few months and she "was upset. She was very blunt. She said why did you mention UNITE? You know you have no right to mention UNITE and you did it twice. I said I'm getting terminated because of UNITE. She was very angry." Miss Owens said that she would get back to him, but never did. (Vera's affidavit given to the Board does not mention that discussion about UNITE with Owens, who did not testify.) On August 13, Bartels called him into his office and handed him a letter which stated: "After administrative review of the disciplinary report/violations of PSCH Policy, 4.1/3, 4.1/9, 4.1/17, dated 8/8/03, effective immediately (August 13, 2003), your employment with PSCH, INC. has been terminated."

Prior to the incidents discussed above, Vera had never previously been disciplined, or given Supervisory Notes by the Respondent.

In order to establish disparate treatment, Counsel for the General Counsel subpoenaed records of other employees who had been disciplined by the Respondent. In May 2002, Job Coach Wayne Stanley was issued a First Warning on Respondent's Employee Disciplinary Report for unauthorized use of Respondent's telephone. He received a Second Warning a month later for an unauthorized unexcused absence, and he was discharged on December 4, 2002 for excessive latenesses and absences. In addition, on September 10, employee Yvette Smith was given a final warning for violating the Respondent's Rule 4.1.9. The Disciplinary Report states that, instead of meeting with her supervisor, as requested, she went into the dining room where, in the presence of consumers, she used profanity. A month earlier she was given a verbal warning for "unprofessional conduct." Employee Tihesha Reddick was discharged on January 27, 2004, also for violating Rule 4.1.9. She had been given a verbal warning on November 6 for using profanity at a residence while engaged in an argument with a co-worker, and on January 10 she used profanity and threatened a co-worker in the presence of consumers. Counsel for the General Counsel also moved into evidence seven other Employee Disciplinary Reports dated from April 2002 to December involving violations of Rule 4.1 No. 9. The employees involved were given either a first or a final warning. Counsel for the Respondent moved into evidence three Employee Disciplinary Reports dated from October 2002 to August to three employees who were discharged for violation of Rules 4.1 No. 9 and No. 3. Wentworth Sealy is employed as a job coach by the Respondent, and is also a Union representative and liaison for the Union at Project Clean. Sealy was given a positive Employee Performance Evaluation dated December 19 for a "wonderful display of job coaching" by meeting consumers at a train station during a snow storm.

IV. Analysis

It is alleged herein that the Respondent disciplined Vera on April 23 by issuing him a Supervisory Note on that date, and discharged him on August 8, both because of his Union activities, all in violation of Section 8(a)(3) of the Act. Under *Wright Line*, 251 NLRB 1083 (1980), Counsel for the General Counsel must make a *prima facie* showing sufficient to support the inference that the discriminatee's protected conduct was a "motivating factor" in the employer's decision. If Counsel for the General Counsel satisfies that burden, then the burden shifts to the employer to demonstrate that it would have taken the same action even absent the protected conduct. I find that Counsel for the General Counsel has not satisfied her initial burden under *Wright Line*. Based upon my observation of the witnesses and my review of the record, I did not find Vera to be a credible witness and I credit the testimony of Rivera and Bartels over his testimony. In addition to this general credibility determination, I specifically credit Rivera's testimony regarding the August 6 incident because Vera's actions and words at that time are consistent with his attitude over the prior six months. Because of the conflicting nature of Morales' testimony at the Unemployment hearing, I do not give it any weight. Further, in a number of situations where Vera testified about discriminatory statements that were allegedly made to him, these statements do not appear in his affidavit given to the Board or are otherwise simply not believable. For example, the statement allegedly made by Bartels in response to being given the Board subpoena by Vera, and the statement that Owens allegedly made to Vera after he was fired are not in his Board affidavit, and the statement that Vera attributes to Rivera on April 22 ("You got yourself involved in union activities and I was told to enforce all of the rules") seems so out of place and out of character for Rivera that I do not believe that it was said.

In addition to the fact that I found Rivera and Bartels to be more credible than Vera, I can see no reason for them to make any anti-Union statement to Vera, nor can I see any realistic argument that he was fired because of his Union activity. He was one of about four employees who appeared for the Union at the scheduled Board hearing, but the Respondent and the Union entered into a election agreement, and signed a recognition agreement with, the Union, so there was no need for their testimony. In addition, there is no evidence of Union animus or Section 8(a)(1) violations, and the evidence establishes that Sealy, who is a Union representative and a liaison at Project Clean, was given a positive Employee Performance Evaluation by the Respondent about five months after Vera's discharge. In fact, there is scant credible evidence of Vera's Union activity; he testified to being a part of the Union's Committee Action Team, and distributing Union paraphernalia to employees, but this also does not appear in his affidavit given to the Board. Obviously, the mere fact that an employee engages in union activities does not immunize him from disciplinary action by his employer. In this case, Vera's Union activities were extremely limited while his indiscretions were not.

Counsel for the General Counsel attempts to establish disparate treatment by alleging that Vera was not given any formal warning prior to the August 6 incident, but this attempt also falls far short. I credit Rivera's testimony that he chose to give Vera Supervisory Notes in February, March and April, rather than formal warnings, because he felt that the issue could be corrected in that manner. This was a reasonable assumption as Vera had no employment difficulties with the Respondent prior to February. Unfortunately, it didn't work out, and the credible evidence establishes that Vera continued to act in an inappropriate and abusive manner. I find that there is no connection between Vera's limited Union activities and the April 23 Supervisory Note or his discharge and I therefore recommend that the Complaint be dismissed in its entirety.

Conclusions of Law

1. PSCH, Inc. has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

2. The Union has been a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent did not violate Section 8(a)(1)(3) of the Act as alleged in the Complaint.

On these findings of fact, conclusions of law and on the entire record, I hereby issue the following recommended³

ORDER

Having found that the Respondent has not engaged in the unfair labor practices alleged in the Complaint, I recommend that the Complaint be dismissed in its entirety.

Dated, Washington, D.C.

Joel P. Biblowitz
Administrative Law Judge

³ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.